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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,781	03/19/2004	Arnold Neil Peterson	067668-136874	7758
25943	7590	02/13/2006	EXAMINER	
SCHWABE, WILLIAMSON & WYATT, P.C. PACWEST CENTER, SUITE 1900 1211 SW FIFTH AVENUE PORTLAND, OR 97204			FRANCIS, FAYE	
			ART UNIT	PAPER NUMBER
			3725	

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/804,781	<b>Applicant(s)</b> PETERSON ET AL.	
	<b>Examiner</b> Faye Francis	<b>Art Unit</b> 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.  
 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☒ Claim(s) 6-11 is/are allowed.  
 6) ☒ Claim(s) 1,2 and 5 is/are rejected.  
 7) ☒ Claim(s) 3 and 4 is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☒ The drawing(s) filed on 3/19/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 and 5 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Linnerz [5,213,273].

Linnerz discloses in Figs 1-2, a materials reduction apparatus comprising: a rotatably mounted rotor 5 having radial projections [hammers 12], an anvil 34 adapted to pivot into two or more positions, at least one of the positions being a closed position wherein the anvil is positioned in proximal relation to the projections of the rotor, a conveying mechanism [passage 18 and inlet 14] for conveying materials to be reduced into the rotating rotor and projections, and to be carried by the projections for impacting the anvil to reduce in size the components of the materials, a screen [swing grid 29] also adapted to pivot into two or more positions, at least one of the positions being a closed position wherein the anvil is positioned in proximal relation to the projections of the rotor for engaging the components to further reduce the size of the components and to provide passage of the further reduced components through screen openings in the apparatus. Also, Linnerz discloses the anvil and screen mounted to have common pivotal movement away from the rotor projections and as pivoted away from the projections providing a bypass for materials carried by the projections to thereby avoid

anvil and screen reduction [col 5 lines 4 to 31], a pivotal resist member/ a bias member [hydraulic cylinder 42] adapted to provide resistance to the pivotal movement while permitting the pivotal movement and thus providing the bypass of materials in response to a determined releasing force generated by reduction resistant material, wherein the resistance when the anvil and screen are in the closed position is different from the resistance when the anvil and screen are pivoted away from the projections, the pivotal resist member and further adapted to allow the screen and anvil to reestablish the closed position [inherently taught by col 5 lines 55-68 and col 6 lines 1-5].

***Allowable Subject Matter***

3. Claims 6-11 are allowed.
4. Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

5. Applicant's arguments, see page 10 third full paragraph to page 11, filed 1/3/06, with respect to claims 6 and 9 have been fully considered and are persuasive. The rejections of claims 6-11 have been withdrawn. However, applicant's arguments regarding claims 1-5 have been fully considered but they are not persuasive.

In response to applicant's argument on pages 10-11 regarding the rejection of claim 1, the examiner would like to point out that it is inherently taught by Linnerz reference [see col 5 lines 55-68 and col 6 lines 1-5] that the resistance when the anvil and screen are in the closed position is different from the resistance when the anvil and

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screen are pivoted away from the projections, the pivotal resist member and further adapted to allow the screen and anvil to reestablish the closed position. When large enough force are set up, hydraulic fluid is forced out of the hydraulic cylinder into the tank [changing the resistance force] and outlet wall together with the swing grid are resiliently deflected.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is 571-272-4423. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Faye Francis', with a stylized, flowing script.

Faye Francis

FF